vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2336 OF 2004

Kanya Shikshan Mandal & Anr. ... Petitioners

V/s.

Mrs.Sumedha Ravindra Pathak & Ors. ... Respondents

Mr.S.V. Pitre for Petitioners
Mr.P.J. Pawar for Respondent No.1
Mr.S.J. Rairkar for Respondent No.2
Mr.S.K. Chinchalikar, AGP, for Respondent No.3

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 26, 2007**

P.C.:

. This petition challenges the order of the School Tribunal in appeal No.7 of 2001. By this order, the School Tribunal had set aside the order of termination dated 24.1.2001 and granted reinstatement w.e.f. 26.2.2001, the date on which the order of termination was to take effect. The Tribunal has also granted full backwages.

2. It appears that there are vacancies in several schools and if the respondent No.1 is declared surplus, she can be accommodated in some other schools. The learned advocate appearing for Respondent No.2 has stated that several vacancies exist even today. Hence, the petition is disposed of with the following order:

ORDER

i) The petitioners shall pay Respondent No.1 the salary payable to her from 24.1.2001 to 26.2.2001 within a period of two weeks from today, if not already paid.

ii) The statement made by the learned advocate for the petitioners that they will declare Respondent No.1 surplus on and from 26.2.2001 is accepted.

iii) The statement made on behalf of the petitioners that they will within two weeks from today forward the proposal to Respondent No.2 for declaring Respondent No.1 surplus and to incorporate her name in the list of surplus teachers is also accepted.

iv) Respondent No.2, on being forwarded the proposal, within four weeks thereafter, shall place Respondent No.1 in the list of surplus teachers and will appoint her in an existing vacancy. The name of Respondent No.1 will be

included in the list of surplus teachers as of 26.2.2001.

v) The statement made by the learned Advocate for the Respondent No.1 that she does not press her claim for backwages for the period beyond 26.2.2001 is also accepted.

3. In view of the aforesaid terms of this order, Respondent No.1 will be entitled to continuity of service as an assistant teacher for the purposes of her seniority and retiral benefits.

4. Writ petition is disposed of accordingly.